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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,486	11/17/2005	Stefan Laufer	264821US0PCT	6298
22850	7590	05/27/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
MORRIS, PATRICIA L				
ART UNIT		PAPER NUMBER		
1625				
NOTIFICATION DATE		DELIVERY MODE		
05/27/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### **DETAILED ACTION**

Claims 16-37 are under consideration in this application.

The petition decision mailed April 18, 2008 is noted. The advisory action mailed March 14, 2008 is hereby vacated. The finality of the Office action mailed on December 11, 2007 is hereby maintained.

**In order to clarify the record, applicants' appeal brief had NOT been in the record as incorrectly alleged by applicants when the advisory action was turned in by the examiner. The examiner did NOT address applicants' traversal of the currently pending rejections because the appeal brief had not been entered into the file. Applicants filed an appeal brief on March 4, 2008 well after their amendment after final on February 26, 2008.**

**The amendment filed after the final rejection on February 26, 2008 will NOT be entered for the reasons clearly set forth in the petition decision. Note page 5 where it is clearly stated that applicant's request to enter the proposed claim amendments filed after the final Office action on February 28, 2006 is denied. Hence, the claims filed on October 1, 2007 are under consideration herein.**

### ***Election/Restrictions***

The restriction requirement is deemed sound and proper and is hereby made FINAL.

Again, this application has been examined to the extent readable on the elected compound wherein R<sup>10</sup> represents a tetrahydropyran and nonheterocyclic groups, B represents nonheterocyclic groups and R<sup>1</sup>-R<sup>7</sup>, A, m and n as set forth in claim 25, exclusively. Again, claims 24 and 34 have been examined to the extent readable on the treatment of rheumatoid arthritis.

***Claim Rejections - 35 USC § 103***

The rejection is hereby withdrawn with respect to the **elected compounds only** in response to applicants' assertions in the instant brief.

***Claim Rejections - 35 USC § 112***

Only claims drawn to the **treatment of rheumatoid arthritis would be allowable** in view of applicant's allegations in the instant response.

***Double Patenting***

The rejection of claims 16-34 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8, 10, 13 and 14 of U.S. Patent No. 6,432,988 in view of applicants' arguments in the instant brief.

Claims 16-23, 25-33 and 35 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12, 14 and 17 of copending Application No. 10/514,911. Although the conflicting claims are not identical, they are not patentably distinct from each other because for the reasons set forth in the previous Office action.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The claims in the instant application are not allowable and hence, this above rejection is maintained.

***Allowable Subject Matter***

Claims 24 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

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claim and any intervening claims and rewritten directed solely to the treatment of rheumatoid arthritis.

Claims 36 and 37 presented in independent form or made dependent on an allowable claim, would appear allowable, otherwise it is objected to as being dependent on a nonallowed claim. It is also noted that they will be substantial duplicates.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Morris whose telephone number is (571) 272-0688. The examiner can normally be reached on Mondays through Fridays.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Patricia L. Morris/  
Primary Examiner, Art Unit 1625

plm  
May 19, 2008











